

Forest Fire Prevention Exemption, 2008

45 Day Notice Published May 23, 2008

Amend 14 CCR § 1038(i) - Exemption

(i) The harvesting of trees in compliance with PRC § 4584(k), Forest Fire Prevention Exemption, limited to those trees that eliminate the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns, for the purpose of reducing the rate of fire spread, duration and intensity, fuel ignitability, or ignition of tree crowns, when the following conditions are met:

(1) The logging area does not exceed 300 acres in size.

(2) The tree harvesting will decrease fuel continuity and increase the quadratic mean diameter of the stand.

(3) The Notice of Exemption, Form RM-73(1038i)(1/01/08), is prepared, signed and submitted by an RPF to the Director. The RPF shall provide current address and telephone number on the form.

(4) The RPF preparing the Notice of Exemption shall, upon submission of the Notice of Exemption, provide a map of the area of timber operations that complies with 14 CCR § 1034(x)(1),(3), (4), (7), (8),(9), (10), (11), (12)and (14). This map shall be submitted in place of the map required by 14 CCR § 1038.2(d).

(5) The RPF shall, upon submission of the Notice of Exemption, include a description of the preharvest stand structure and a statement of the postharvest stand stocking levels. The level of residual stocking shall be consistent with maximum sustained production of high quality timber products. The residual stand shall consist primarily of healthy and vigorous dominant and codominant trees from the preharvest stand. Trees retained to meet the basal area stocking standards shall be selected from the largest trees available on the project area prior to harvest. In no case shall stocking be reduced below the following standards:

(A) Where the preharvest dominant and codominant crown canopy is occupied primarily by trees greater than 14 in. dbh:

[Coast]:

1. On Site I lands at least 125 sq. ft. per acre of basal area shall be left.

2. On Site II and III lands at least 100 sq. ft. per acre of basal area shall be left.

3. On Site IV lands at least 75 sq. ft. per acre of basal area shall be left.

4. On Site V lands, at least 50 sq. ft. per acre of basal area shall be left.

[Northern, Southern]:

1. On Site I mixed conifer lands at least 125 sq. ft. per acre of basal area shall be left, and on Site I land where greater than 50% of the basal area is pine, at least 100 sq. ft. per acre of basal area shall be left.

1 2. On Site II mixed conifer lands at least 100 sq.ft.
2 per acre of basal area shall be left, and on Site II lands where
3 greater than 50% of the basal area is pine, at least 75 sq. ft. per
4 acre of basal area shall be left.

5 3. On Site III mixed conifer lands at least 75 sq. ft.
6 per acre of basal area shall be left, and on Site III lands where
7 greater than 50% of the basal area is pine, at least 75 sq. ft. per
8 acre of basal area shall be left.

9 4. On Site IV and V mixed conifer lands, at least 50
10 sq. ft. per acre of basal area shall be left, and on Site IV and V
11 lands where greater than 50% of the basal area is pine at least 50 sq.
12 ft. per acre of basal area shall be left.

13 (B) Where the preharvest dominant and codominant crown
14 canopy is occupied by trees less than 14 in. dbh, a minimum of 100
15 trees per acre over 4 in. dbh shall be retained for site I, II, and
16 III. For site IV and V - 75 trees per acre over 4 in. dbh shall be
17 retained.

18 (6) The RPF shall, upon submission of the Notice of Exemption,
19 provide the selection criteria for the trees to be removed or the
20 trees to be retained. In the development of these criteria, and the
21 fuel reduction prescriptions, the RPF should consider retaining
22 habitat elements, where feasible, including, but not limited to,
23 ground level cover necessary for the long-term management of local
24 wildlife populations. The selection criteria shall specify how the
25 trees to be removed, or how the trees to be retained, will be
designated. All trees to be harvested or all trees to be retained
shall be marked or sample marked by, or under the supervision of, an
RPF prior to felling
operations. Sample marking shall be limited to homogeneous forest stand
conditions typical of plantations. When trees are sample marked, the
designation prescription for unmarked areas shall be in writing and the
sample mark area shall include at least 10% of the harvest area to a maximum
of 20 acres per stand type which is representative of the range of conditions
present in the area.

 (7) The RPF shall, upon submission of the Notice of
Exemption, provide a Confidential Archaeological Letter which contains
all the information required for plans and Emergency Notices in 14 CCR
§ 929.1(c)(2), (7), (8), (9), (10) and (11),
[949.1(c)(2), (7), (8), (9), (10) and (11), 969.1(c)(2), (7), (8), (9), (10)
and (11)] including site records as required pursuant to 14 CCR §§
929.1 (g) [949.1(g), 969.1(g)] and 929.5 [949.5 and 969.5]. The
Director shall submit a complete copy of the Confidential
Archaeological Letter, and two copies of any required archaeological
or historical site records, to the appropriate Information Center of
the California Historical Resource Information System, within 30 days
from the date of Notice of Exemption submittal to the Director.
Before submitting the Notice of Exemption to the Director, the RPF
shall send a copy of the Notice of Exemption to Native Americans
defined in 14 CCR § 895.1.

 (8) Only trees less than 18 inches outside bark stump diameter,
measured at eight inches above ground level, may be removed except as
follows:

 (A) Within 500 feet of a legally permitted structure that
complies with the California Building Code, or in an area prioritized

1 as a shaded fuel break in a community wildfire protection plan
2 approved by a public fire agency, if the goal of fuel reduction cannot
3 be achieved by removing trees less than 18 inches outside bark stump
4 diameter, trees less than 24 inches outside bark stump diameter may be
5 removed if that removal complies with this section.

6 (9) Post harvest stand conditions shall not violate the
7 following canopy closure requirements:

8 (A) Minimum post treatment canopy closure of dominant and
9 codominant trees shall be 40 percent for east side pine forest types;

10 (B) Minimum post treatment canopy closure of dominant and
11 codominant trees shall be 50 percent for coastal redwood and Douglas-
12 fir forest types within ¼ mile from approved and legally permitted
13 structures that comply with the California Building Code (legal
14 structure). Such legal structures shall be within or adjacent to a
15 community listed in the "California Fire Alliance list of Communities
16 at Risk" (copyright date 2003 on file in the official rulemaking file
17 and incorporated by reference) and have densities greater than 1
18 structure per 20 acres;

19 (C) Minimum post treatment canopy closure of dominant and
20 codominant trees shall be 50 percent for coastal redwood and Douglas-
21 fir forest types within 500 feet of a legal structures outside the
22 area referenced in 14 CCR § 1038 (i)(9)(B);

23 (D) Minimum post treatment canopy closure of dominant and
24 codominant trees shall be 60 percent for coastal redwood and Douglas-
25 fir forest types outside areas referenced in 14 CCR § 1038 (i)(9)(B)
and (C);

(E) Minimum post treatment canopy closure of dominant and
codominant trees shall be 50 percent for mixed conifer and all other
forest types.

(10) (A) This subsection applies to areas described in 14 CCR §
1038(i)(8)(A). ~~Notwithstanding wildlife habitat requirements of 14 CCR~~
~~§ 1038(i)(6), or requirements of PRC 4291, or other requirements for~~
~~dominant and codominant trees under 14 CCR § 1038(i)(9),~~ sSurface and
ladder fuels in the harvest area, including logging slash and debris,
brush, small trees, and deadwood, that could promote the spread of
wildfire, shall be treated to achieve standards for vertical spacing
between fuels, horizontal spacing between fuels, maximum depth of dead
ground surface fuels, and treatment of standing dead fuels, as
follows:

(i)Ladder and surface fuels, excluding residual stand

1 dominant and codominant trees, shall be spaced to achieve a vertical
2 clearance distance of eight feet or three times the height of the post
3 harvest fuels, whichever is the greater distance, measured from the
4 base of the live crown of the post harvest dominant and codominant
5 trees to the top of the ladder or surface fuels, which ever is taller.

6 (ii) Ladder ~~and surface~~ fuels, excluding residual
7 stand dominant and codominant trees, shall be spaced to achieve
8 horizontal clearance distance of two to six times the height of the
9 post harvest fuels measured from the outside branch edges of the
10 fuels. On ground slopes of zero percent to 20 percent horizontal
11 clearance distance shall be two times the height of post harvest
12 fuels; on ground slopes of greater than 20 percent to 40 percent
13 horizontal clearance distance shall be four times the height of post
14 harvest fuels; on ground slopes of greater than 40 percent horizontal
15 clearance distance shall be six times the height of post harvest
16 fuels.

17 (iii) Dead surface fuel depth shall be less than 9
18 inches.

19 (iv) Standing dead or dying trees and brush, shall
20 generally be removed. Such material, along with live vegetation
21 associated with the dead vegetation, may be retained for wildlife
22 habitat when isolated from other vegetation.

23 (B) This subsection applies to all other areas outside
24 those described in 14 CCR § 1038(i) (8)(A).

25 (i) Post treatment stand shall contain no more than
200 trees per acre over 3 inches in dbh, ~~notwithstanding~~ when

1 consistent with 14 CCR § 1038 (9)(A)-(E).

2 (ii) Vertical spacing shall be achieved by treating
3 dead fuels, excluding dead branches on the trees retained for stocking, to a
4 minimum clearance distance of 8 feet measured from the base of the
5 live crown of the post harvest dominant and codominant trees to the
6 top of the dead surface or ladder fuels, which ever is taller.

7 (iii) All logging slash created by the timber
8 operations shall be treated to achieve a maximum post harvest depth of
9 9 inches above the ground.

9 (C) Treatment conducted under this subsection shall not
10 supersede requirements of PRC § 4291.

11 (11) Treatments for fuels shall include chipping, removing,
12 piling, burning or other methods necessary to achieve the standards.
13 Treatments for any portion of the exemption area where timber
14 operations have occurred, except for burning operations, shall be done
15 within 120 days from the start of timber operations on that portion of
16 the exemption area. Burning operations shall be completed by April 1
17 of the year following surface fuel creation. Treatment of surface
18 fuels by burning shall be exempt from the one year time
19 limitations described under 14 CCR § 1038.1

15 (12) Fuel treatments conducted under 14 CCR § 1038(i)(8),(9), (10) and
16 (11) shall be achieved on at least 80 percent of the treated area.

16 (13) Timber operations shall comply with the limits established
17 in 14 CCR § 1038, subsections (b) (1) through (10). Timber operations
18 in the Lake Tahoe Region shall comply with the requirements of
19 paragraphs (1) to (16), inclusive of subdivision (f) of Section 1038
20 of Title 14 of the California Code of Regulations.

18 (14) At least one inspection conducted by the Director shall be
19 made after completion of operations.

19 (15) 14 CCR § 1038(i) shall expire on January 1, 2013.

20 Note: Authority cited: Sections 4551, 4553, 4584 Public Resources Code.
21 Reference: Sections 4527, 4584, Public Resources Code. EPIC v California
22 Department of Forestry and Fire Protection and Board of Forestry (1996) 43
23 Cal. App.4th 1011.

23 File: 1038(i) plead 5/9/08 cz